

Cooperative Approaches to Resolving NRD Liability: What Works

Linda Burlington
Senior Counselor for
Damage Assessment

NOAA/ Office of General Counsel



Elements of Success

- Focus on science and restoration
- Establish common goals
- Agree to framework for cooperation
- Plan ahead
- Communicate regularly
- Be flexible
- Share data
- Make decisions through consensus
- Learn requirements/limitations of other parties



Trustee Needs

- Successful restoration to ensure adequate public compensation
- Public participation
- Funding
- Less litigation, with resolution of liability
- Legal framework for settlement



Tripping Points

- Traditional mindsets
- Focusing on disagreements
- Letting process rule
- Surprise unilateral actions



Legal Issues

- Reservation of rights
- Covenant not to sue
- Contribution protection
- Signatories: numbers and delays
- Reopeners
- Stipulated penalties



Benefits

- More restoration
- Less interim loss
- Lower costs
- Resolution of liability



For further information visit:
www.darp.noaa.gov

